



## AUDIT & FINANCE COMMITTEE MINUTES

March 26, 2009

The Audit & Finance Committee of the City of Mesa met in the lower level meeting room of the Council Chambers, 57 East 1st Street, on March 26, 2009 at 9:46 a.m.

### COMMITTEE PRESENT

Scott Somers, Chairman  
Dina Higgins  
Kyle Jones  
Christopher Brady, Ex-Officio

### COUNCIL PRESENT

None

### STAFF PRESENT

Bryan Raines  
Debbie Spinner  
Linda Crocker

(Items on the agenda were discussed out of order, but for purposes of clarity will remain as listed on the agenda.)

#### 1. Items from citizens present.

Alan Gardner, a Mesa resident, spoke relative to the adjustments to various fees and charges proposed by Falcon Field Airport (Item 10). He commented that the airport is dominated by one aircraft training facility and explained that private pilots are often confronted with delays in becoming airborne due to activity occurring at the facility. Mr. Gardner also stated that residents in the area are subjected to aircraft noise 24 hours a day and are concerned that student pilots fly solo over their homes on a daily basis. He added that Falcon Field should implement a system that would be more equitable in terms of collecting fees, and in particular, landing fees.

#### 2. Hear a presentation, discuss and provide direction on the Audit of the City Attorney Risk Management Process.

City Auditor Gary Ray reported that this item was an audit of the Risk Management workflow process in the City Attorney's Office and advised that the audit resulted in one finding that is detailed in the Corrective Action Plan along with recommendations for improvement. He noted that the Information Technology (IT) Department removed the ability of personnel to delete claims from the Riskmaster system and said it was recommended that an edit log be created to document all changes to the database.

City Attorney Debbie Spinner further clarified that when her staff received a new claim, they would enter it into the Riskmaster database. She stated that on occasion, the claim would be incorrectly reentered into the system, after which time it would be necessary to delete one of the

entries. Ms. Spinner noted that in order to correct future data entry errors, claims would be listed as "void" to document that it was entered twice.

3. Hear a presentation, discuss and provide direction on the Mesa Cemetery – Fee Collection and Process Audit Follow-up.

Mr. Ray indicated that this item is a follow-up audit, which staff traditionally conducts 9 to 12 months after the original audit, to assess whether the recommended Corrective Action Plans were implemented. He reported that all of the recommendations were met except for the continuing inaccuracy of the monthly financial reports. Mr. Ray stated that the Accounting Division continues to reconcile the monthly Cemetery activity to ensure that all transactions are included and revenues properly collected, deposited and recorded. He said that this is a short-term solution and added that a budget request has been made to purchase new software in order to accommodate the Cemetery's needs in this regard.

4. Hear a presentation and discuss the Audit verifying the 2% reduction in employee compensation.

Mr. Ray offered a brief overview of his February 25, 2009 memo to the Council which certified that all City employees, the Mayor and Council and Council appointees were included in the 2% reduction of compensation, but not employees earning the Federal minimum wage.

In response to a question from Chairman Somers, Deputy City Manager Bryan Raines clarified that the restoration of employee salary reductions would not be included in the FY 2009/10 budget. He noted, however, that the FY 2010/11 budget forecast currently includes the item as well as the resumption of merit increases. Mr. Raines added that such decisions would be based on the status of the economy at that time.

5. Discuss and provide direction following a presentation by the City Attorney and City Auditor concerning their review of concerns raised by Mr. James E. Gardner, Jr.

James E. Gardner, Jr., a Mesa resident, commented that there is a misconception that a State-approved contract supersedes a City contract. He stated that on several occasions in the last year, staff recommended that the Council approve a Statewide cooperative contract rather than the City contract, which resulted in thousands of dollars being misspent. Mr. Gardner cited, for example, that a City painting contract, at an approved rate of \$28.50 per hour, was utilized for small projects, but when the cost of the job was more than \$2,500, a State contract was used at a rate of \$48.64 per hour, plus the use of ladders and equipment.

Mr. Gardner further remarked that staff misinterpreted the State contract by allowing a State-approved painting contractor to subcontract for stucco and drywall repair; that on February 8, 2008, the Council approved a \$98,000 contract with a State-approved contractor to paint and do stucco work, in violation of A.R.S. Section 34-201; and that in October 2008, the Council approved a contract with the same painting contractor, which included drywall and stucco work, that exceeded the State contract and violated State Statutes, the City Charter and City policy.

City Attorney Debbie Spinner provided the Committee an extensive legal analysis of this item. Her comments included, but were not limited to, the following: that the City had a contract with Jim Gardner, Jr. Construction for \$20,000 and Larkin Painting Contractors for \$60,000; that if

there was an estimated project less than \$2,500, the City would use either Mr. Gardner's or Mr. Larkin's contract, depending on the type of work that was required; that if a project was expected to exceed \$2,500, the City/Facilities Maintenance would seek three bids and take the lowest responsive bid; that if a contract exceeded \$25,000, per the City Charter and Management Policy 200, competitive bidding was required, with the successful contract presented to the Council for approval.

Ms. Spinner further reported that if the City had a project that exceeded the \$2,500 service contract limit, staff also had the option to use a State contract, which had already gone through the competitive bidding process and contained the most favored customer provisions. She added that in response to certain projects referenced by Mr. Gardner, the City chose to proceed in that manner.

In response to a question from Chairman Somers, Mr. Ray explained that it is difficult to determine the hourly rate on a State contract because the entity uses a different bidding process than the City. He noted that Mesa's contract rate is \$28.50 per hour and added that in some of the estimates that the City received from Larkin Painting, the company's hourly rate was \$48.63.

Mr. Ray referenced a March 24, 2009 memo and briefly highlighted his efforts with regard to Mr. Gardner's allegations of wrongdoing on the part of a City painting contractor, certain City employees and City management not renewing his contract. (See Attachment 1)

Ms. Spinner commented that with regard to the most recent contract renewal process with Mr. Gardner, there was "nothing out of the ordinary" as compared to the previous process in 2002. She stated that what occurred in this case was that Mr. Gardner's contract was not renewed and added that City Manager Christopher Brady determined that it would be in the best interest of the City that the contract be amended in order to better reflect the services and needs of the organization at the time.

Discussion ensued relative to the chronology of events with regard to this issue; that in October 2008, Mr. Gardner signed what he believed was his contract and staff began to proceed through the approval process; that on January 12, 2009, Mr. Gardner met with Deputy City Manager Bryan Raines to address various items; that Mr. Raines subsequently met with Mr. Brady who, upon learning that the contract limit was to be increased from \$20,000 to \$100,000 and that there was only one contractor, determined that there should be a pool of contractors for the service and that the extent of the service should be widened; and that during the week of January 19, 2009, such direction was given to Mr. Raines before the contract was to be renewed on January 31, 2009.

City Manager Christopher Brady stated that he was unaware of the terms or the history of the contract until the above-referenced dates. He explained that Mr. Gardner's work performance was never a concern, but rather the appearance that the City was relying on a single contractor to provide a variety of services at the \$2,500 level for over a decade. Mr. Brady also noted that in his opinion, it was more appropriate for Mesa to utilize three or four contractors on a rotational basis.

In response to a question from Chairman Somers, Ms. Spinner clarified that the contract and the bid expressly states that this is a non-exclusive contract and the City reserves the right to seek similar services from other vendors when appropriate and necessary.

Mr. Brady further commented that if Mr. Gardner was interested in proposing a new contract for services, he would encourage him to do so. He indicated that as a result of the current downturn in the economy, there is more competitive pricing for labor and materials and advised that because of the expiration of Mr. Gardner's existing contract, it was an appropriate time to evaluate what would be in the best interest of the City with regard to such services and to create a new Request for Proposals (RFP) process.

Committeemember Jones noted that the City's contract with Mr. Gardner was unique in that the City paid for materials and Mr. Gardner supplied the labor. He also stated that the contract was competitively bid three times in 14 years and each time Mr. Gardner was the successful vendor. He added that he disagreed with the perception that Mr. Gardner had an exclusive contract with the City.

Mr. Brady responded that the current vendor mentioned on more than one occasion that he believed his contract was exclusive. He explained that such belief caused him concern and necessitated greater clarification that it was, in fact, not an exclusive contract.

Mr. Ray advised that Contracts Administrator Tom LaVell authored a March 24, 2009 report in which he thoroughly addressed Mr. Gardner's allegations, provided various observations made during his investigation and offered a series of recommendations. (The report is available for review in the City Clerk's Office.) He briefly highlighted a number of Mr. LaVell's findings/observations as follows: Larkin Painting Contractors did, in fact, perform work outside of its contract on several City projects and contracted with other vendors to perform drywall and stucco services; that Larkin was not licensed to supervise these vendors; that Mr. Gardner filed a complaint against Mr. Larkin with the Registrar of Contractors in this regard; that Mr. Larkin was unaware that supervising these contractors was beyond the scope of his license; and that Mr. Larkin has subsequently applied for a General Contractor's license.

Further discussion ensued relative to Mr. LaVell's recommendations regarding this matter (See Attachment 2); that staff will institute a follow-up procedure to ensure that the recommendations have been implemented; that training will be provided to various departments relative to contract administration; that the City did not engage in fraudulent behavior with regard to Mr. Gardner's complaint; that staff has learned through this process that the State contract may not always be the best price; and that it would be appropriate for staff to create additional benchmarks to ensure that such pricing is competitive.

Committeemember Higgins expressed appreciation to Mr. Gardner for bringing these issues to the attention of the Council. She also wanted to ensure that the City was not retaliating against him for doing so.

Ms. Spinner responded that there is no evidence of a connection between Mr. Gardner's complaint and the non-renewal of his contract. She added that Mr. Gardner was encouraged and invited to bid on the new contract.

Committeemember Jones stated that this matter has brought to light the importance of staff reexamining various contract processes to ensure that this type of situation does not occur again in the future.

Chairman Somers commented that contract management is important to the City and said he would support any efforts to ensure that funding is available to train staff in that regard.

Responding to Mr. Brady's previous comments, Mr. Gardner clarified that he never indicated that he had an exclusive contract with the City. He also questioned, with the creation of a pool of contractors, how the City would determine which contractor would respond to an emergency within two hours.

Chairman Somers stated that when the above-referenced issue in the contract is determined, that Mr. Raines will provide that information to Mr. Gardner and the Committee.

Chairman Somers thanked everyone for the presentation.

6. Discuss and make a recommendation on adjustments to various fees and charges as proposed by the Arts and Cultural Department for the Arizona Museum for Youth and Mesa Arts Center.

Mr. Raines reported that each year, staff presents their proposed fees and charges to the Audit & Finance Committee, after which time the Committee forwards on its recommendations to the full Council. He explained that if the recommendations are approved by the Council, certain fees are brought back to the Council as resolutions and some in the form of resolutions and ordinances (i.e., utility rates). Mr. Raines added that for the most part, the adjustments have been included as part of the budget forecast.

Chairman Somers suggested that rather than staff making comprehensive presentations for items 6 through 12, that it might be appropriate for the Committeemembers to simply ask specific questions regarding the various proposed adjustments.

In response to a question from Committeemember Higgins, Arts Administrator Rob Schultz offered a short synopsis of the costs associated with renting various spaces in the Mesa Contemporary Arts facility. He explained that based on staff's market research, the proposed rates are more appropriate than in 2005 when the Mesa Arts Center first opened.

Committeemember Higgins expressed concern regarding the proposed rate increase (from \$1,125 to \$2,000) for a non-profit agency to rent the Mesa Contemporary Arts facility.

(See motion under agenda item 12.)

7. Discuss and make a recommendation to eliminate the fees previously associated with revisions to the City Code Book as requested by the City Clerk.

In response to a question from Chairman Somers, City Clerk Linda Crocker explained that she is unaware of any law that would require that the City Code Book be provided in printed form to an individual. She stated that a hard copy of the document is retained in the City Clerk's Office and available for review.

(See motion under agenda item 12.)

8. Discuss and make a recommendation on adjustments to various fees and charges as proposed by the Parks, Recreation and Commercial Facilities Department.

Chairman Somers expressed concern that the proposed Aquatics Public Swim General Admission is almost three times as much as similar fees in other communities and that the cost for a Season Pass (Amenity pool - \$190, Non-amenity pool - \$125) far exceeds similar services in the surrounding municipalities. (See Attachment 3) He also referenced the proposed Practice Use costs for Sports Field Use (baseball facilities) and questioned whether Mesa is losing revenue to neighboring cities due to its Tournament/Game Use rates. (See Attachment 4)

Parks, Recreation and Commercial Facilities (PRCF) Department Director Rhett Evans clarified that the item identified as "Season Pass" should have been listed as "Family Season Pass" and this would account for some of the higher costs. He also provided a comparative analysis of the current rates implemented in various communities and noted that there would be a fee adjustment at Kino and Rhodes pools, which have been modified as amenity pools. Mr. Evans further acknowledged that the City's fees are higher than other communities, but noted that Mesa is the leader with regard to its Aquatics Program and facilities. He added that if it were the direction of the Committee, staff would go back and review the fees in greater detail.

Chairman Somers inquired what value a Mesa resident would receive by the City imposing significantly higher Aquatics Program fees than other communities. He also questioned whether staff views such fees as a means of cost recovery or to pay for the program completely, unlike other communities that utilize their General Funds to subsidize similar activities.

Mr. Evans responded that the City's pools do not achieve cost recovery with the fees and charges that are implemented and, in fact, Mesa "loses money" on such facilities.

Discussion ensued relative to the percentage of cost recovery in neighboring communities (amenity versus non-amenity pools); that the City offers a 50% discount on the Family Pass during the Memorial Day weekend; and that Mesa does not currently offer a senior discount at City pools.

Chairman Somers stated that he would like staff to develop a discounted admission fee for senior citizens at Mesa's pools.

Mr. Raines responded that the recommended adjustments to fees and charges for certain services provided by the PRCF Department are first approved through the Parks and Recreation Board prior to being presented to the Audit & Finance Committee. He stated that with regard to Chairman Somers' suggestion, it would be appropriate for staff to take that issue back to the Board for additional discussion and consideration.

Chairman Somers requested, pending the concurrence of his fellow Committeemembers, that staff and the Parks and Recreation Board consider the following items: 1.) A discounted admission fee for senior citizens at Mesa's pools; and 2.) Conduct an evaluation of Mesa's fees/charges as compared to those of other communities to determine whether Mesa's fees provide a higher value to its residents.



Assistant PRCF Department Director J.D. Dockstader explained that it is difficult to compare the fees and charges associated with Mesa's softball and baseball facilities with those of other communities. He concurred that Mesa's fees are "on the higher end," but stated that the maintenance and quality of the fields is also higher than those found in other communities.

In response to a question from Chairman Somers, Mr. Evans confirmed that staff would be happy to conduct an analysis of the vacancy rate at Mesa's sports fields as compared to those in the surrounding communities.

Mr. Raines further noted that in recent months, the PRCF Department has experienced significant budget reductions and is attempting to maximize its pools, fields and facilities to the fullest extent possible and also ensure that they are well maintained.

Committeemember Higgins expressed concern that non-profit organizations would be required to incur an hourly facility rental fee, especially in light of the fact that the City has asked those entities to "pick up the slack" with regard to sponsoring summer programs that Mesa has eliminated due to budgetary constraints. She inquired if her fellow Committeemembers would be willing to direct staff to look at what the actual cost would be for the facilities as opposed to "trying to make money" on the non-profit community.

Discussion ensued relative to the Recreation Centers at Jefferson and Webster Elementary Schools; that the City and Mesa Public Schools (MPS) have entered into an Intergovernmental Agreement (IGA) with regard to these facilities, including the splitting of utility costs; that due to budget constraints, MPS is limited in its ability to pay such costs; and that if a for-profit or non-profit organization hosts a program at one of the facilities, it is necessary for the City to pass on those charges to those entities.

Committeemember Higgins suggested that the City raise the temperature in these facilities in an effort to cut air conditioning costs. She stated that the proposed fees make it unaffordable for a non-profit agency to host programs at the schools.

Mr. Evans noted that there are steps the City and MPS can take to work toward minimizing electricity costs at the facilities and hopefully pass along those savings to the non-profit organizations.

Chairman Somers said that if the Committee moves the adjustments to various fees and charges proposed by the PRCF forward, the Council could reject, if they so chose, the fee for facility rentals for non-profit and commercial use.

(See motion under agenda item 12.)

9. Discuss and make a recommendation to establish a City Service Application Fee and a Utility Service Fee as proposed by the Development and Sustainability Department.

Development and Sustainability Director Christine Zielonka briefly highlighted the above-referenced fees and stated that they came about as a result of the Council's recent action concerning Mesa's annexation policy.

(See motion under agenda item 12.)

10. Discuss and make a recommendation on adjustments to various fees and charges as proposed by Falcon Field Airport.

Chairman Somers requested that staff address the issue of a landing fee at Falcon Field Airport that was discussed by Al Gardner under agenda item 1.

Falcon Field Airport Director Corrine Nystrom reported that staff is currently considering the possibility of charging a landing fee for aircraft that utilize Falcon Field Airport. She explained that staff is also working with the City Manager's Office and the Information Technology Department (ITD) to research what type of technology is available to record landings that would occur at the airport, identify the owner of the aircraft, compile a process that would enable the airport to bill the entity and ultimately collect such a fee. Ms. Nystrom added that although such a practice is generally not done at general aviation airports, her staff is researching the issue to determine if it would be feasible at Falcon Field.

In response to a question from Committeemember Higgins, Ms. Nystrom provided a brief overview of a proposed \$89 open tie-down fee (at a discount rate) for 20 or more large propeller aircraft, jets and/or helicopters. She explained that the airport already imposes a tie-down fee for 20 or more single engine or small twin engine aircrafts and said that the proposed fee would provide greater consistency if an entity wanted to rent open tie-downs for 20 or more jet aircraft, large aircraft or helicopters.

Committeemember Higgins stated the opinion that Falcon Field Airport should not provide a discounted open tie-down fee for entities that have 20 or more large aircraft or helicopters. She requested that staff look into the matter further.

In response to a question from Chairman Somers, Ms. Nystrom explained that there is an economy of scale that the City passes along with such a fee. She stated that if the airport is working with an entity that has 20 or more aircraft, it would expedite the administration process relative to obtaining registration information and the signing of contracts.

In response to a question from Chairman Somers, Ms. Nystrom clarified that the landing fee previously mentioned is not included as one of staff's recommendations on adjustments to fees and charges at this time.

(See motion under agenda item 12.)

11. Discuss and make a recommendation on adjustments to the fees for traffic counts related to the Speed Hump Program as proposed by the Transportation Department.

(See motion under agenda item 12.)

12. Discuss and make a recommendation to establish a charge for the purchase of "earbuds" by patrons as proposed by the Library Department.

It was moved by Committeemember Jones, seconded by Committeemember Higgins, to forward agenda items 6 through 12 on to the full Council for further discussion and Council action.

Carried unanimously.



13. Discuss and make a recommendation on adjustments to business rules, rates and fees for City of Mesa utility customers as proposed by the Water Resources, Energy Resources and the Business Services Departments:

a. Fees and Charges for Utility Customers

Enterprise Services Administrator Alisha Solano introduced Utilities Financial Analyst William Hughes, who was prepared to respond to any questions the Committee may have. Ms. Solano briefly highlighted staff's recommendations as follows: 1.) Adjust the existing utility service fees to recover costs according to changes in cost responsibility among customers; 2.) Add new utility service fees to recover costs from customers that directly benefit from utility services.

In response to a question from Chairman Somers, Mr. Hughes referenced a document entitled "Market Comparison of Utility Service Fees" and provided an analysis of Mesa's water, electric and natural gas fees as compared to those of surrounding communities and investor-owned utilities. (See Attachment 5)

Mr. Raines further noted that "same day" service is an option that was added several years ago at the suggestion of the Council. He explained that if a customer is willing to pay a higher fee for same day service and staff is able to adjust their schedule to accommodate such a request, the City is willing to do so.

Business License and Revenue Collections Administrator Tim Meyer offered a short synopsis of the City's notification process when a utility customer is delinquent in the payment of his/her bill.

b. Terms and Conditions for the Sale of Utilities

Business Services Director Ed Quedens reviewed the proposed changes to the Terms and Conditions for the Sale of Utilities that would update the policy on backbilling for wastewater service except for unauthorized use.

c. Utility Rates

- i. Water Resources (Water & Wastewater)
- ii. Energy Resources (Natural Gas)

Budget Director Chuck Odom reported that in the last few years, the Council requested that staff separate each of Mesa's utilities into individual service models. He explained that staff has spent a significant amount of time in that regard and has fixed the transfer amounts, targeted the City's General Fund and overall enterprise fund balances out into the future, and assessed the rate for each utility according to the entity's operating and capital costs.

Mr. Odom advised that staff is seeking the Committee's support for the utility rate adjustments proposed for the fiscal year ending June 30, 2010 (FY 2009/10), which are consistent with the revenue requirements of the Preliminary Budget Plan for that year. He highlighted the utility rate adjustments as follows: Water – 3.4%; Wastewater – 6.5%; Natural Gas – 3.0%. (Note: No changes for Electric and Solid Waste). Mr. Odom stated that the utility rate adjustments would generate approximately \$6.2 million of additional revenue. He added that the average customer

would spend an additional \$1.15/month for water, \$1.25/month for wastewater, \$0.88 in the winter and \$0.49 in the summer for natural gas.

In response to a question from Committeemember Higgins, Water Resources Department Director Kathryn Sorensen clarified that the proposed rate adjustment of 6.5% for wastewater is not that significant as compared to fee increases in other Valley communities. She cited, by way of example, that Glendale is seeking a 12% increase in its wastewater rate. Ms. Sorensen also stated that wastewater is "a very capital intensive undertaking" and added that it is necessary for Mesa to address its major wastewater infrastructure expenses.

Mr. Odom also referenced a document entitled "Average Homeowner's Charges Survey" and said that in March 2009, staff conducted a survey to determine the average financial impact of the rate adjustments on residential customers. (See Attachment 6) He explained that the numbers reflected in the survey are rate increases that were actually implemented as opposed to anticipated rate increases.

Chairman Somers noted that Jill Kusy submitted a speaker card but did not wish to address the Committee. He read her comments as follows: "Wanted to express that we would like to continue to work with staff to understand the methodology of certain fees prior to taking a position."

Ms. Sorenson clarified that Ms. Kusy's comments are in regard to the newly proposed rate structure for the delivery of untreated exchange water from the Central Arizona Project (CAP) canal that would apply to the Gateway area. She stated that staff has met with representatives of DMB concerning these rates and would be happy to discuss the matter further.

Mr. Raines advised that if there is an adjustment made to the above-referenced rate tariff sheet, staff would include such changes in the Council report before the matter comes before the Council for final introduction.

It was moved by Committeemember Jones, seconded by Chairman Somers, that the above-referenced adjustments to business rules, rates and fees for City of Mesa utility customers, as proposed by the Water Resources, Energy Resources and Business Services Departments, be forwarded on to the full Council for further discussion and Council action.

Carried unanimously.

14. Adjournment.

Without objection, the Audit and Finance Committee meeting adjourned at 11:41 a.m.

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Audit & Finance Committee meeting of the City of Mesa, Arizona, held on the 26<sup>th</sup> day of March 2009. I further certify that the meeting was duly called and held and that a quorum was present.

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LINDA CROCKER, CITY CLERK

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(attachments – 6)